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Note verbale dated 17 April 2006 from the Permanent Mission of Azerbaijan to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Azerbaijan to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004), and has the honour to present herewith additional information requested by the Committee on its first report on the implementation of the Security Council resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 17 April 2006 from the Permanent Mission of Azerbaijan to the United Nations addressed to the Chairman of the Committee

Measures taken for implementing 2nd paragraph of the resolution

The issues concerning the prevention of the proliferation of nuclear, chemical and biological weapons, as well as their means of delivery are regulated by the constitution, criminal code, law "on export control", law "on border forces" of the Republic of Azerbaijan and other relevant laws, international agreements to which the Republic of Azerbaijan is a party and other legislative acts of the Republic of Azerbaijan.

According to the legislation of the Republic of Azerbaijan only individuals fall under the sphere of application of the criminal legislation. Legal entities are not subject of criminal responsibility. They are subject of administrative responsibility (may be fined or liquidated).

Illegal *acquisition, transfer*, brokering, *preservation, transportation* or possession of firearms, their components and ammunitions are crimes under the article 228 of the criminal code of the Republic of Azerbaijan. *Manufacturing/production* of firearms is regulated by the 229th article. A person who has produced or repaired a firearm, its component and ammunition could be punished up to 3 years of imprisonment. Articles 230, 231 and 232 define criminal responsibility for careless preservation of firearms, non-fulfillment of the commitments on protection of firearms, ammunitions, explosive materials and installations and for plundering or demanding radioactive materials by threat means.

The criminal code of the Republic of Azerbaijan determines criminal responsibility also for terrorist activities. Article 214 defines what the terrorism means within the jurisdiction of the Republic of Azerbaijan. Article 214.2.3 prescribes from 10 to 15 years of imprisonment or life sentence for committing terrorism by using firearms. The Republic of Azerbaijan also adopted a law "on fighting against terrorism", dated June 18, 1999 which regulates some matters on these issues.

According to the article 33.1 of the criminal code the criminal responsibility of the accomplices* is determined on the bases of the character and extent of their factual participation in committing the crime. The 64th article sets the rules on punishing above mentioned criminals taking into account the character and extent of their factual participation, role in accomplishment of the crime and the usefulness of their participation, the personality of each accomplice, also punishment mitigating factors, the factual influence of the actions of the criminal to the extent and character of the physical, moral or material damages.

Administrative offences code of the Republic of Azerbaijan envisages administrative responsibility for "breaching of ecological requirements during

* Article 32 defines the accomplices as executor, organizer, inciter and assistant of the crime

engagement in radioactive materials" (article 77), "non fulfillment or breaching requirements of ensuring sanitary and hygiene rules of radiation security" (article 107), "breaking legislation on ecological security" (article 113.0.10) activities.

Measures taken for implementing (a) and (b) subparagraphs of the 3rd paragraph of the resolution

Matters concerning the securing or protecting chemical, biological and nuclear weapons and their means of delivery are also regulated with the appropriate articles of the criminal code and some other acts of the Republic of Azerbaijan. Article 224 of the criminal code envisages criminal responsibility for the breaching of the rules on *accounting*, *storage* and use of the explosive, incendiary substances and pyrotechnic products, also illegal *transportation* of these substances and products. According to the legislation of the Republic of Azerbaijan all weapons should be registered.

Measures taken for implementing (c) and (d) subparagraphs of the 3rd paragraph of the resolution

Articles 206.2-206.4, 226, 227 and 350 of the criminal code of the Republic of Azerbaijan prescribe criminal responsibility for smuggling radioactive, explosive substances and installations, military weapons and technologies, nuclear, chemical, biological and other WMD, materials and equipments that could be used in development of WMD, also for illegal treatment with radioactive materials, plundering or demanding radioactive materials by threatening means and for breaching rules of conduct with weapons and articles menacing the surrounding people. These actions are included into little severe and severe crimes and offenders may be punished from 3 years up to 12 years of imprisonment for these crimes. According to the 3.7 paragraph of the Presidential decree of the Republic of Azerbaijan of 25 august of 2000 "On the application of the law of the Republic of Azerbaijan "on the confirmation, entering into force of the criminal procedural code of the Republic of Azerbaijan and legal regulations concerning these matters" and criminal procedural code of the Republic of Azerbaijan confirmed by this law" the competence to conduct initial investigation on these crimes was entrusted to the Ministry of National Security of the Republic of Azerbaijan.

A number of legislative measures have been taken to improve legislative base in this sphere. A new law of 26 October of 2004 "On export control" was adopted by the parliament of the Republic of Azerbaijan. According to this law the purposes and principals of the realization export control in the Republic of Azerbaijan consist of ensuring compliance with the obligations of interstate agreements, to which the Republic of Azerbaijan is a party, on the non-proliferation of WMD and other kind of weapons (article 4.0.3) and the assessment of the technological level, end-users and intermediary parties of the goods (works, services, results of the intellectual activities) which fall under export control (article 4.0.4).

According to the 5th article of the above mentioned law WMD (nuclear, chemical, bacteriological and toxin weapons – article 1.1.5), as well as their means of delivery, double-use goods (works, services, results of the intellectual activities) that could be used in development of WMD, military techniques and ammunitions, explosive and radioactive substances, radioactive devices fall under the export control within the scope of the law.

According to the 8th article of the above mentioned law the list of states to which export of the goods (works, services, results of the intellectual activities) which fall under export control is prohibited, end-users and the goods (works, services, results of the intellectual activities) which fall under export control and which are prohibited to export is determined by the Cabinet of Ministries upon the consent of the President of the Republic of Azerbaijan.

The 9th article of this law notifies that the export, import, re-export and re-import and transit of the goods (works, services, results of the intellectual activities) which fall under export control are carried out under the license issued by relevant executive organ.

The 14th article of the law prescribes criminal, civil and administrative responsibility of the citizens of the Republic of Azerbaijan and foreign countries for the breaking the legislation on export control.

After the adoption of the law "on export control" the criminal code of the Republic of Azerbaijan was amended and according to the new article 224.1 a person who has applied the double-use goods (works, services, results of the intellectual activities) that could be used in manufacturing and development of WMD, arms, military techniques, ammunitions for ordered purposes may be punished up to 6 years of imprisonment. Exporting goods (works, services, results of the intellectual activities) which fall under export control to the states and to end-users to which export of these goods is prohibited or limited is also crime under the article of 224.2.

According to the article 4.6 of the law of the Republic of Azerbaijan "On border forces" and paragraph 9.7 of the "Charter on State Border Service of the Republic of Azerbaijan" within its competences the State Border Service of the Republic of Azerbaijan ensures the prevention of the transferring of WMD and their components and radioactive substances through state border.

The Republic of Azerbaijan also adopted a new law "On the confirmation of the lists of the narcotic means and psychotic substances, the circulation of which are prohibited or limited or under control and the precursors which demand special permission (license) for exporting, importing and transit transportation and manufacturing in the Republic of Azerbaijan" which, inter alia, includes the

precursors that a special permission (license) are demanded for exporting, importing and transit transportation and manufacturing these materials.

In order to fulfill the commitments in this sphere all of the admission stations from state border are supplied with hand dosimeters, radiation control pagers and the main highways are provided with stationary installations.

For the purposes of the prevention of illegal circulation of nuclear and radiological materials and strengthening the protection of state border, the reparation of a number of exploiting ships, aircrafts and helicopters, obtainment one guarding ship, 2 patrol boats and 11 high speed powerboats, special technical devices on border control, purchase and installation of modern communication equipments and the creation of coastal technical observing stations and aviation group could be emphasized in line with the works done within the last 3 years.

A number of enforceable measures for the prevention of illegal circulation of nuclear, chemical and biological weapons and related materials also prescribed in the customs code of the Republic of Azerbaijan. For the purposes of improvement the works in the sphere of radiation security "rules on implementing customs inspection on radioactive materials" was adopted by State Customs Committee in consistent with the international instruments, as well as international radiation security norms and rules on safely carriage of radioactive materials.

Measures taken for implementing 1st, 5th, 6th and 10th paragraphs and (a), (b) and (c) subparagraphs of the 8th paragraph of the resolution

According to the constitution of the Republic of Azerbaijan international agreements to which the Republic of Azerbaijan is a party form inalienable part of the legislative system of the Republic of Azerbaijan (article 148.2). 151st article of the constitution declares that if collision takes place between the legal acts which form the legislative system of the Republic of Azerbaijan (with the exception of the constitution and acts adopted by referendum) and interstate treaties to which the Republic of Azerbaijan is a party, the later prevails. Taking these provisions into consideration, the Republic of Azerbaijan signed/ratified a number of multilateral agreements concerning non-proliferation WMD and other related materials. Since the independence of the Republic of Azerbaijan it has become a party of the following treaties:

- "By the law, dated august 4, 1992, "Nuclear non-proliferation treaty";
- "By the law, dated december 1, 1998, "Comprehensive nuclear test ban treaty and annexes to his treaty and protocol to the comprehensive nuclear test ban treaty and annexes to this treaty";
- "By the law, dated november 9, 1999, "convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction;

- "By the law, dated december 5, 2003, "convention on the prohibition of the development, production, stockpiling of biological weapons and on their destruction;